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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,034	03/31/2004	Kyu Jae You	BHT/3162-11	3865

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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

EXAMINER

BOWERS, NATHAN ANDREW

ART UNIT	PAPER NUMBER
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1797

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/813,034	Applicant(s) YOU, KYU JAE	
	Examiner NATHAN A. BOWERS	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 7-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1) Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Fahnestock (US 5451523) in view of Darling (US 20040265993) and Lewis (US 20060010947).

With respect to claims 1, 5 and 6, Von Fahnestock discloses a mobile unit for creating fertilizer from organic wastes. The mobile unit consists of a concrete truck whose drum mixer (Figure 1:1) is fashioned as a reactor tank capable of accommodating organic matter. This is disclosed in column 17, line 37 to column 18, line 37. Von Fahnestock, however, states that organic materials enter the mixer via a chain conveyor (Figure 1:5) rather than a conduit regulated by a suction pump.

Darling discloses a mobile unit for creating fertilizer from organic wastes. A plurality of reaction tanks (Figure 1:60, 62) are provided for the enzymatic digestion of waste materials.

Wastes are moved into the tanks from a grinder (Figure 1:68) using a suction pump (Figure 1:88). Discharge pumps are additionally provided for removing organic materials from the mixing reactor. This is disclosed in paragraphs [0034]-[0046]. Paragraph [0036] also states that pH is adjusted in the mixing reactor through the introduction of various additives.

Von Fahnestock and Darling are analogous art because they are from the same field of endeavor regarding mobile waste treatment units.

At the time of the invention, it would have been obvious to substitute the conveyor system disclosed by Von Fahnestock with a pumping mechanism capable of delivering and removing organic wastes to and from the mixing reactor. Conveyors and pumps are considered to be functionally equivalent devices for transporting materials within a system. If it were determined for any reason that a pumping system would have been advantageous over a conveyor system, it would have been obvious to modify the apparatus of Von Fahnestock accordingly.

At the time of the invention, it would have also been obvious to modify the apparatus of Von Fahnestock in order to include a supply device capable of introducing additives to the reactor. Darling teaches that additives such as enzymes are essential to the degradation of waste materials. Darling also teaches that additives such as acids are effective pH regulating chemicals.

The combination of Von Fahnestock and Darling still differs from the Applicant's claimed invention because neither reference teaches that vehicle exhaust gas is introduced to the reactor.

Lewis discloses a mobile fertilizer producing vehicle. Lewis teaches that exhaust produced at the engine (Figure 1:18) is moved through a muffler (Figure 1:28) via a gas pipe (Figure 1:42) to a reactor (Figure 1:48). At the reactor, chemicals from the exhaust gas are collected and used to make a fertilizer. This is disclosed in paragraphs [0042]-[0045].

Von Fahnestock, Darling and Lewis are analogous art because they are from the same field of endeavor regarding mobile fertilizer units.

At the time of the invention, it would have been obvious to alter the construction of the vehicle disclosed by Von Fahnestock in order to introduce exhaust into the mixing reactor. Lewis teaches in paragraph [0020] that exhaust gases generally include nitrogen and other nutrients that are readily converted into fertilizer. Exhaust gases represent a viable nutrient source that is attainable at a minimal cost.

With respect to claims 2-4, Von Fahnestock, Darling and Lewis disclose the apparatus set forth in claim 1 as set forth in the 35 U.S.C. 103 rejection above. As previously mentioned, Von Fahnestock teaches that the mixing reactor is created from a modified cement mixer. Darling additionally teaches that it is known in the art to fashion reactor tanks on the back of various trucks and trailers.

At the time of the invention, it would have been obvious to construct the mixing reactor disclosed by Von Fahnestock on the back of a truck or trailer. The use of trucks and trailers to haul various mixing reactors is considered to be well known in the art.

Response to Arguments

Applicant's arguments filed 14 March 2008 with regard to the 35 U.S.C. 103 rejections involving the combination of Von Fahnstock, Darling and Lewis have been fully considered but they are not persuasive.

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Korea on May 10, 2003. It is noted, however, that applicant has not filed a certified copy of the Korean application as required by 35 U.S.C. 119(b).

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan A. Bowers whose telephone number is (571) 272-8613. The examiner can normally be reached on Monday-Friday 8 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William H. Beisner/
Primary Examiner, Art Unit 1797

/Nathan A Bowers/
Examiner, Art Unit 1797